

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ROSELAND COMMUNITY HOSPITAL  
Employer

and

Case 13-RC-256995

SERVICE EMPLOYEES INTERNATIONAL  
UNION (SEIU) HEALTHCARE ILLINOIS &  
INDIANA  
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.<sup>1</sup> The Employer's request for extraordinary relief is denied as moot.

JOHN F. RING,

CHAIRMAN

MARVIN E. KAPLAN,

MEMBER

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<sup>1</sup> In denying review, we note that the Board's decision in *San Diego Gas & Electric*, 325 NLRB 1143, 1145 (1998), recognizes that Board elections should, as a general rule, be conducted manually and specifies well-settled guidelines for determining whether a mail-ballot election would normally be appropriate. Under normal circumstances, this would almost certainly not be an election where a mail ballot would be considered. But in *San Diego Gas & Electric*, the Board also recognized that "there may be other relevant factors that the Regional Director may consider in making this decision" and that "extraordinary circumstances" could permit a Regional Director to exercise his or her discretion outside of the guidelines set forth in that decision. *Id.*

In finding that a mail-ballot election is warranted in this case, we rely on the extraordinary federal, state, and local government directives that have limited nonessential travel, required the closure of nonessential businesses, and resulted in a determination that the regional office charged with conducting this election should remain on mandatory telework. Mandatory telework in the regional office is based on the Agency's assessment of current Covid-19 pandemic conditions in the local area. Under all of the foregoing circumstances, we are satisfied that the Regional Director did not abuse his discretion in ordering a mail-ballot election here.

Pursuant to Sec. 102.66(g)(1) of the Board's Rules and Regulations, a hearing officer is required to solicit the parties' positions regarding the type of election "but shall not permit litigation of those issues." This provision is consistent with longstanding Board precedent holding that election details — including the type of election to be held — are nonlitigable matters left to the discretion of the Regional Director. See *Representation-Case Procedures*, 84 Fed. Reg. 69524, 69544 fn. 82 (Dec. 18, 2019) (citing *Manchester Knitted Fashions, Inc.*, 108 NLRB 1366, 1367 (1954)). As such, there is no merit to the Employer's contention that the Regional Director improperly denied the parties the opportunity to present evidence on the propriety of a manual election.

The Board is open to addressing the normal criteria for mail balloting in a future appropriate proceeding.

WILLIAM J. EMANUEL, MEMBER

Dated, Washington, D.C., May 26, 2020.